

CASE 09-C-2155

KANAWHA

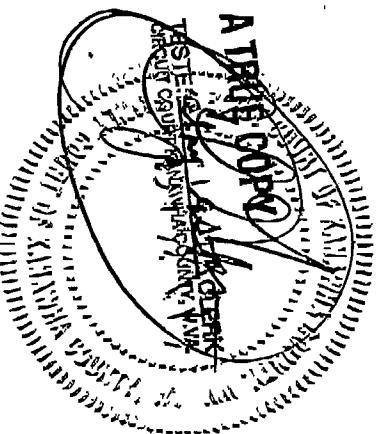
PAGE 1

MEREDITH ELLISON

vs. OCMEN LOAN SERVICING, LLC

LINE DATE ACTION

1 11/19/09 # ISSUED SUM & 2 CPYS; F FEE; RCPT 451463; \$145.00; CASE INFO
2 # SHEET; COMPLAINT
3 11/25/09 # LET FR SS DTD 11/23/09; SUM W/RET (11/23/09 SS) AS TO OCMEN
4 # LOAN SERVICING LLC
5 12/07/09 # E-CERT FR SS AS TO OCMEN LOAN SERVICING, LLC DTD 11/30/09



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

MEREDITH ELLISON,

Plaintiff,

v.

CIVIL ACTION NO.: 09-C- 2155

OCWEN LOAN SERVICING, LLC,

Defendant.

COMPLAINT

Comes now the Plaintiff, by counsel, and states as follows:

1. This is action for unlawful debt collection.
2. The Plaintiff Meredith Ellison is a resident of 205 Loma Road, Charleston, Kanawha County, West Virginia. She no longer resides at the South Charleston address upon which there was a loan serviced by the Defendant.
3. The Defendant Ocwen Loan Servicing, LLC ("Ocwen") is a national lending association with its principal place of business at 1661 Worthington Road, Suite 100, West Palm, Florida, 33409.
4. Representation by Counsel and Discharge of Indebtedness: In early 2009, the Plaintiff retained the services of attorney, William W. Pepper and the subject debt was discharged on May 27, 2009.
5. Abusive Servicing: (a) From in or around August, 2009 to the present date, the Defendant and its agents set about on an intentional course of reckless misconduct and intentional abuse.
 - (b) In order to get it stopped, the Plaintiff faxed the Defendant a copy of the discharge order on August 27, 2009 and directed all calls to her lawyer.
 - (c) On August 24, 2009, the Defendant's agent called the Plaintiff three times.

FILED
2009 NOV 19 AM 9:18
CATHY S. HARRIS
KANAWHA COUNTY CIRCUIT COURT

6. From September 8, 2009 through October 27, 2009, the Defendant directly communicated with the Plaintiff orally by telephone forty-three (43) times and three (3) times in writing, all in an effort to collect.

7. On each oral communication occasion, the Plaintiff told the Defendant to call her lawyer. The Defendant continued.

CLAIMS FOR RELIEF

COUNT I - INTENTIONAL INFLICTION OF MENTAL DISTRESS

8. The Plaintiff incorporates the preceding paragraphs by reference.

9. The Plaintiff alleges that the Defendant's course of conduct was pursued intentionally or by reckless indifference to inflict fear and emotional distress.

WHEREFORE, Plaintiff prays for actual and punitive damages.

COUNT II - UNLAWFUL DEBT COLLECTION

10. The Plaintiff incorporates the preceding paragraphs by reference.

11. In an effort to collect the Defendant set about an intentional effort to annoy and harass by contacting the Plaintiff incessantly in violation of *W.Va. Code* § 46A-2-125(d).

WHEREFORE, the Plaintiff respectfully prays for the following relief:

(a) That the Plaintiff be awarded civil penalties in the sum of Four Thousand Four Hundred Dollars (\$4,400.00) for each of the Defendant's violations of *W.Va. Code* § 46A-2-123, *et seq.*, which penalties are prescribed by *W.Va. Code* §§ 46A-5-101(1) and 106.

(b) That the Plaintiff be awarded such other and further relief as the Court may deem reasonable and just.

COUNT III - TORT OF OUTRAGE

12. The Plaintiff incorporates the preceding paragraphs by reference.

13. The Plaintiff alleges that the Defendant's refusal to record proper payments and pursuing of threatening and abusive collection communications to the Plaintiff constituting outrageous conduct in violation of the law of West Virginia.

WHEREFORE, the Plaintiff respectfully prays for the following relief:

(a) That the Plaintiff be awarded actual and punitive damages.

(b) That the Plaintiff be awarded such other and further relief as the Court may deem reasonable and just.

COUNT IV - ILLEGAL DEBT COLLECTION - ILLEGAL COMMUNICATIONS

14. The Plaintiff incorporates the preceding paragraphs by reference.

15. The Defendant communicated directly with the Plaintiff in an effort to collect knowing she was represented by counsel on at least forty-three (43) occasions orally and at least five (5) times in writing in violation of *W.Va. Code* § 46A-2-128(e).

WHEREFORE, the Plaintiff respectfully prays for the following relief:

(a) That the Plaintiff be awarded civil penalties in the sum of Four Thousand Two Hundred Thousand Dollars (\$4,200.00) for each of the Defendant's violation of *W.Va. Code* § 46A-2-114 which penalty is prescribed by *W.Va. Code* §§ 46A-5-101(1) and 106.

(b) That the Plaintiff be awarded such other and further relief as the Court may deem reasonable and just.

COUNT IX - ILLEGAL DEBT COLLECTION - AMOUNTS NOT DUE

16. The Plaintiff incorporates the preceding paragraphs by reference.

17. The Plaintiff alleges that the Defendant failed to correct and attempted to collect amounts not due on least forty-three (43) occasions in violation of *W. Va. Code* § 46A-2-127(d).


WHEREFORE, the Plaintiff respectfully prays for the following relief:

(a) That the Plaintiff be awarded civil penalties in the sum of Four Thousand Two Hundred Thousand Dollars (\$4,200.00) for Defendant's violation of *W. Va. Code* § 6A-2-114, which penalty is prescribed by *W. Va. Code* §§ 46A-5-101(1) and 106.

(b) That the Plaintiff be awarded such other and further relief as the Court may deem reasonable and just.

THE PLAINTIFFS DEMAND A TRIAL ON ALL ISSUES SO TRIABLE.

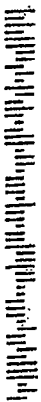
MEREDITH ELLISON
By Counsel



DANIEL F. HEDGES (WVSB #1660)
Attorney At Law
8 Hale Street
Charleston, WV 25301
(304) 346-1054.
Counsel for Plaintiff

CERTIFIED MAIL

UNITED STATES POSTAGE
PRIMEV BOWLES
02 1M
0004252409
MAILED FROM ZIP CODE 25305
\$ 04.95⁰
NOV 24 2009



Privileged and Confidential
Attorney Work Product

No: AC-004121709

LIT INTAKE FORM

☐ URGENT! DATE OPENED: 12/18/2009 LIT FLAGS: ☒ LP ☒ LI ☐ LW ☐ CL
 MM Ntfcn: ☐ InsCov (litinscov@ocwen.com) Other Flags: ☐ CU ☒ LITO ☐ NO FLAGS
☐ None ☐ EStlmt (litestlmt@ocwen.com) ☒ CM FLAG 30 DAYS ☐ ESCROW ☐ Removal
 To: kherzik@morrislaing.com, rkear@morrislaing.com
 CC: guy.lucere@ocwen.com

KELLY & RICK:

We are opening this matter in the Law Dept because of the attached document. Please ensure that the matter is responded to in a timely fashion and that the interests of Ocwen and its investor are protected.

We have raised the LP and LI flags and entered the LITO comment. If you disagree, please e-mail Sasha Kovacic to have this changed immediately.

Should foreclosure, eviction or bankruptcy counsel retained by the default servicing department currently be assigned to this loan at the time it is opened in the Law Department, then it is Managing Counsel's responsibility to notify foreclosure counsel of their role in this matter and ensure they take no action inconsistent with Managing Counsel. Should you require assistance in facilitating this, please contact Lucrece Guy. When you advise of your involvement, you also need to confirm in writing that all of their work stops so that they do not bill the default servicing department or the Law Dept any further.

This has been categorized as a TIER III. If facts develop which warrant changing the Tier, then you should send an e-mail to Lit-intake@ocwen.com requesting a Tier change along with an explanation supporting the request.

This matter has not been designated as a candidate for early research. However, it is still the responsibility of Managing Counsel to request any subsequent research or clarifications needed and upload any and all research received into Powerbrief.

This matter has been designated as a case management candidate. Vikram Chalapathy will be setting a case management meeting in 30 days. Should the matter settle or close prior to the next case management meeting, then please e-mail Vikram Chalapathy. Should urgent issues arise and a meeting is necessary sooner, please request a meeting through Vikram Chalapathy.

This matter has been designated as a candidate for notification to the investor. If you disagree, please immediately advise InvNot@ocwen.com within 24 hours. If there is supplemental language you want included in the notification, then also notify InvNot@ocwen.com of same. If later in the matter, you believe a subsequent notification to the investor becomes necessary, then it is your responsibility to do so and you may obtain contact information from InvNot@ocwen.com. Please note Powerbrief and upload subsequent notifications to the investor.

Vikram: Please set a case management conference for 30 days.

Open as:	Meredith Ellison v. OLS	O NAMED:	Yes	ENTITY:	OLS
Put in Folder:	Kear	INIT BY:	BWR	PREV:	3
MC:	Morris Laing	ROC:	Kelly Herzik	TIER:	TIER III
IHC:	Rick Kear	CO-IHC:	N/A	M3-TYPE 1:	AFF
LRC:	Robert Probel	FCTDISP 1:	Bwr alleging intentional infliction of mental distress, unlawful debt collection, tort of outrage, illegal debt collection and illegal communications		
REPURCH?	NO	FCTDISP 2:	N/A		
Bill:	IB	M1:	Adv	M2:	RLS
Inv Named?	No	Inv Notice Required	Yes	If No, Why?	N/A
Loan#'s for which InvNotifications have to be sent	70665914				

Lien Pos:	1st	Loan No:	70665914	
Flags on Loan:	FC, NP			
<input type="checkbox"/> InBK	<input checked="" type="checkbox"/> InFC	<input type="checkbox"/> InRE03P	<input type="checkbox"/> REO (cc Hillery)	
PB Status:	Not in Powerbrief	IHC:	N/A	ROC: N/A
Matter Name:	N/A	Prior TE?	NO	
TE'd to	N/A			
Bwr:	Meredith Ellison			
Prop Address:	1212 Londeree Avenue, South Charleston - 25303			State WV
Trust/Inv#	2697	UNLISTED	Active Deal:	Yes
Trustee Name	FREDDIE MAC		Date:	N/A
UPB	68,041.71			
If UPB 0, why:	N/A		Date Next Due:	8/1/2009
If other why:	N/A		FC Atty Tel No.:	(724)728-1020
If Charge off why:	N/A		BK Atty Tel No.:	None
If ST'd, To:	N/A		EV Atty Tel No.:	None
Is Ocwen Servicing	YES			
FC Atty:	Mancini & Assoc.			
BK Atty:	None			
EV Atty:	None			

CIS / RR Data			
Originator:	Taylor, Bean & Whitaker Mtg Corp		
Mortgage Date:	12/12/2006	Recorded?:	NO
Book	N/A	Page	N/A
Mortgage Amount:	70,100.00		
Total Debt Per Real Resolution	70,286.98		
MV Per Real Resolution:	69,177.00	Date of MV:	10/31/2009



CORPORATION SERVICE COMPANY®

Notice of Service of Process

DKS / ALL
Transmittal Number: 7190077
Date Processed: 12/01/2009

Primary Contact: Lucrece Guy
Ocwen Financial Corporation
1661 Worthington Road
Suite 100
West Palm Beach, FL 33409

Entity:	Ocwen Loan Servicing, LLC Entity ID Number 2122003
Entity Served:	Ocwen Loan Servicing, LLP
Title of Action:	Meredith Ellison vs. Ocwen Loan Servicing, LLP
Document(s) Type:	Summons/Complaint
Nature of Action:	Contract
Court:	CIRCUIT COURT OF KANAWHA COUNTY, West Virginia
Case Number:	09-C-2155
Jurisdiction Served:	West Virginia
Date Served on CSC:	11/30/2009
Answer or Appearance Due:	30 Days
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	Daniel F. Hedges 304-346-1054

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E
Charleston, WV 25305



9171 9237 9000 1000 1721 46



Natalie E. Tennant
Secretary of State
Telephone: 304-558-6000
Toll Free: 866-SOS-VOTE
www.wvsoS.com

Ocwen Loan Servicing, LLC
Corporation Service Company
209 West Washington Street
Charleston WV 25302

ControlNumber: 286594
Defendant: Ocwen Loan Servicing, LLC

Civil Action: 11/23/2009
09-C-2155

I am enclosing:

<input type="checkbox"/> summons	<input type="checkbox"/> affidavit	<input checked="" type="checkbox"/> 1 summons and complaint
<input type="checkbox"/> notice	<input type="checkbox"/> answer	<input type="checkbox"/> summons returned from post office
<input type="checkbox"/> order	<input type="checkbox"/> cross-claim	<input type="checkbox"/> summons and amended complaint
<input type="checkbox"/> petition	<input type="checkbox"/> counterclaim	<input type="checkbox"/> 3rd party summons and complaint
<input type="checkbox"/> motion	<input type="checkbox"/> request	<input type="checkbox"/> no return from post office
<input type="checkbox"/> suggestions	<input type="checkbox"/> certified return receipt	<input type="checkbox"/> notice of mechanic's lien
<input type="checkbox"/> interrogatories	<input type="checkbox"/> request for production	<input type="checkbox"/> suggestee execution
<input type="checkbox"/> original	<input type="checkbox"/> request for admissions	<input type="checkbox"/> Other
<input type="checkbox"/> subpoena duces tecum		

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper. Please do not call the Secretary of State's office.

Sincerely,

Natalie E. Tennant
Secretary of State

SUMMONS

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

MEREDITH ELLISON,

Plaintiff,

v.

CIVIL ACTION NO.: 09-C- 2155

OCWEN LOAN SERVICING, LLC,

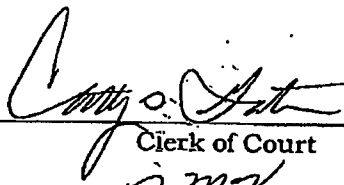
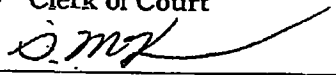
Defendant.

To the above-named Defendant: **OCWEN LOAN SERVICING, LLC**
Corporation Service Company
209 West Washington Street
Charleston, WV 25302

ACCEPTED FOR
SERVICE OF PROCESS
2009 NOV 23 PM 4:11
SECRETARY OF STATE
STATE OF WEST VIRGINIA

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon **DANIEL F. HEDGES**, Plaintiff's attorney, whose address is **8 Hale Street, Charleston, West Virginia 25301**, an answer, including any related counterclaim you may have, to the Complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: 11-19-09


Clerk of Court

By, Deputy Clerk